

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT JOHN THIERY, JR.,

Plaintiff,

v.

MARGARET GILBERT,

Defendants.

CASE NO. 3:16-cv-06034 RBL

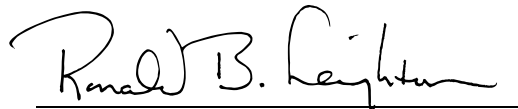
**ORDER ADOPTING REPORT
AND RECOMMENDATION**

The Court, having reviewed the Report and Recommendation of Magistrate Judge J. Richard Creatura, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and **ORDER:**

- (1) The Court adopts the Amended Report and Recommendation [Dkt. #9].
- (2) Petitioner filed a second or successive petition for relief under 28 U.S.C. § 2254 without the Ninth Circuit's permission. He argues his 1994 conviction is unconstitutional after the Washington Supreme Court's 2014 ruling in *State v. Williams*, 336 P.3d 1152 (2014). Justice does not demand that the Court transfer his petition to the Ninth Circuit. *See* CTA9 Rule 22-3.
- (3) Therefore, Petitioner's 28 U.S.C. § 2254 petition [Dkt. #4] is **DISMISSED WITHOUT PREJUDICE**.
- (4) The Clerk is directed to send copies of the Ninth Circuit Court of Appeals Form 12-Application for Leave to File Second or Successive Petition Under 28 U.S.C. § 2254 or Motion Under 28 U.S.C. § 2255 and a copy of Ninth Circuit Rule 22.3.

1 (5) The Clerk is also directed to send copies of this Order to Petitioner and to the
2 Hon. J. Richard Creatura.

3 **DATED** this 13th day of March, 2017.

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6 Ronald B. Leighton
7 United States District Judge
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